REMARKS

STATUS OF THE CLAIMS

Claims 1, 2, and 4-10 are pending in the application.

Claims 1, 2 and 4-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Barritz et al. (U.S. 6,029,145).

According to the foregoing, the claims are amended, and, thus, the pending claims remain for reconsideration, which is respectfully requested.

No new matter has been added.

REJECTION

The Office Action maintains from the previous Office Action rejection of independent claims 1, 6, 8, 9 and 10 for allegedly being anticipated by Barritz.

The Office Action Response to Arguments alleges Barritz anticipates the claimed embodiment when Barritz "discloses particular usage of the software product (col. 3, lines 30-60; col. 4, lines 36-60; FIG. 7)." According to the foregoing, the independent claims, using claim 1 as an example, are amended to further emphasize patentably distinguishing features of the claimed embodiments by providing:

> 1.   (CURRENTLY AMENDED) An accounting method
> for imposing, by a server, a charge for using an application
> program installed on a client, the method comprising:
>
> **_setting a particular function of the application program_**
> **_installed on the client as a key function_**;
>
> a function-performance detecting step for **_detecting_**
> **_whether a particular function set as a_****_performance of the_** **_key_**
> **_function of an_****_the_** **_application program_** installed on the client
> was performed**_as performance of the particular function_**;
>
> an application program specifying step for **_specifying_** **_a_**
> **_type of the application program performing_** the particular
> function set as the key function;
>
> a user specifying step for specifying**_registering_** **_a user_**
> who performed the particular function**_for using the key_**
> **_function of the application program_**; and

> ~~an accounting step for~~ *imposing charges on a*<u>*the*</u>
> <u>*registered*</u> *user* ~~*specified by the user specifying step*~~
> *according to* <u>*a*</u> *frequency of* ~~*performance of*~~<u>*detecting*</u>
> <u>*performance of*</u> *the* <u>*key*</u>~~*particular*~~ *function of the application*
> *program* <u>*and the type of the application program*</u>~~detected via~~
> ~~the set key function by the function performance detecting step,~~
> ~~wherein the accounting step imposes a charge according to the~~
> ~~application program specified by the application program~~
> ~~specifying step~~ (emphasis added).

For example, the original claims 1 and 3; and FIGS. 7, 8, 9 and 10 ("*<u>registering</u> a user*

... <u>for using the key function of the application program</u>," and FIGS. 11, 12, 13, 15, 16; and

page 6, lines 2-22 and page 10, lines 16-20, support the claim amendments. Barritz column 3

and 4 as relied upon in the Office Action only discuss "monitors invocations or usage of the

software products at the discrete computer sites," but Barritz column 3 and 4 fail to disclose,

either expressly or inherently, how to monitor a particular usage of the software product. Barritz

column 15, lines 10-18 discusses, "concept of 'usage' as used herein and/or a reported event

includes all detected events, including those relating to compliance issues, such as software or

database access requests that may have been denied because they violated license terms, or

that were permitted even though they violated the license terms."

However, Barritz only discusses detected events of software, and a prima facie case of

anticipation based upon Barritz cannot be established, because Barritz fails to disclose, either

expressly or inherently, each and every element set forth in the claims, as follows: Barritz does

not expressly discuss the claimed "*<u>setting a particular function of the application program</u>*

<u>installed on the client as a key function</u> ... <u>registering</u> a user ~~*who performed the particular*~~

~~*function*~~<u>*for using the key function of the application program*</u>*; and imposing charges on*

a<u>*the registered*</u> *user* ~~*specified by the user specifying step*~~ *according to* <u>*a*</u> *frequency of*

~~*performance of*~~<u>*detecting performance of*</u> *the* <u>*key*</u>~~*particular*~~ *function of the application*

program <u>*and the type of the application program*</u>," because Barritz only discusses detecting

events, but is silent on the claimed embodiment "*<u>setting a particular function of the</u>*

<u>application program installed on the client as a key function</u>" and to *detect the "key*

function."

Barritz column 7, lines 27-65 discusses the monitoring program 22 using the operating

system's service requests as a detected event, or using a "hook" into the operating system, to

monitor events, which is expressly silent on the claimed "*<u>setting a particular function of the</u>*

application program ... as a key function ... and imposing charges on a~~the~~ registered
user ~~specified by the user specifying step~~ *according to* a~~_frequency of~~ *performance*
~~of~~detecting performance of *the* ~~key~~particular *function of the application program* and the
type of the application program." Further, Barritz column 7 event detection fails to inherently
disclose the claimed "*setting a particular function of the application program installed on
the client as a key function*," because Barritz's event detection relies upon operating system's
service requests and "hooks," which do not necessarily include the claimed setting an event to "*a
key function*" to be detected for purposes of "*imposing charges on* a~~the~~ registered *user*
~~specified by the user specifying step~~ *according to* a~~_frequency of~~ *performance*
~~of~~detecting performance of *the* ~~key~~particular *function of the application program* and the
type of the application program."

Further, in rejecting dependent claim 4, the Office Action relies upon Barritz column 2,
lines 27-36, which discusses:

> Some software products incorporate functions and facilities
> that monitor their own usage and enforce license terms (for
> example, by limiting the number of concurrent users of the
> product, or limiting usage to registered user who sign on with
> unique passwords), or which merely report on usage and warn of
> usage beyond the terms of the license. In many cases, these
> functions are provided by products supplied by third-party vendors
> to be incorporated by software developers.

However, this Barritz discussion cannot anticipate the claimed embodiment by failing to
disclose, either expressly or inherently, how the Barritz software product monitors its own usage.
Further, this Barritz discussion cannot anticipate the claimed embodiments by failing to disclose,
either expressly or inherently, how the user is registered with a password. In other words, the
language of the claims do not only recite Barritz's monitoring software product usage, Barritz's
enforcing license terms, and Barritz's registered user who signs on with unique passwords, but
the claimed embodiment provides "*setting a particular function of the application program
installed on the client as a key function* ... *registering a user* ~~who performed the particular
function~~for using the key function of the application program; ... *imposing charges on*
a~~the~~ registered *user* ~~specified by the user specifying step~~ *according to* a~~_frequency of~~
~~performance of~~detecting performance of *the* ~~key~~particular *function of the application
program* and the type of the application program." Barrtz cannot anticipate the claimed

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embodiment by failing to disclose, either expressly or inherently, the claimed detecting "*a particular function of the application program*" based upon "*setting ... a key function*" for detection. Further, Barritz discussion of a registered user differs from the claimed "*registering a user for using the key function of the application program*," since Barritz is silent on setting any key function. Further, Barrtiz, either expressly or inherently, is silent on the claimed "*imposing charges on a~~the registered~~ user ~~specified by the user specifying step~~ according to ~~a~~ frequency of ~~performance of~~detecting performance of the ~~key~~particular function of the application program and the type of the application program*," because Barritz is silent on setting any "key function."

Further, Barritz is silent on the claimed imposing a charge depending upon "*the type of the application program*."

DEPENDENT CLAIMS 4 & 5:

Further, Barritz column 2, cannot anticipate dependent claim 4 by failing to expressly or inherently disclose the claimed "wherein the registering the user for the application program is performed upon detecting the performance of the key function by the user ~~in case of the particular function having been performed~~ for the~~a~~ first time," because Barritz is silent on any "key function" and is silent on performing any type of user registration "*upon detecting the performance of the key function by the user ... for the~~a~~ first time*."

Further, Barritz cannot anticipate dependent claim 5 by failing to expressly or inherently disclose the claimed "wherein the setting the particular function of the application program comprises setting an imposed charges key function, the method further comprising informing a ~~client which made a request about~~ the registered user of amount of charges imposed at ~~that~~a time of detecting performance of the imposed charges key function by the registered user," because Barritz is expressly or inherently silent on setting any "*key function*," Barritz is also expressly or inherently silent on "*setting an imposed charges key function*," and Barritz is also expressly or inherently silent on "*informing a client which made a request about the registered user of amount of charges imposed at that~~a~~ time of detecting performance of the imposed charges key function by the registered user*."

In view of the claim amendments and remarks, withdrawal of the rejection of pending claims and allowance of pending claims is respectfully requested.
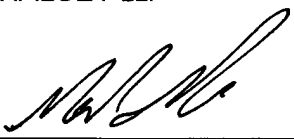
CONCLUSION

If there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,
STAAS & HALSEY LLP

Date: _March 19, 2007_   By: _____

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